

Senate File 457 - Introduced

SENATE FILE _____
BY COMMITTEE ON WAYS
AND MEANS

(SUCCESSOR TO SF 363)
(SUCCESSOR TO SSB 1239)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to disaster recovery by legalizing certain
2 actions taken and proceedings conducted by cities and counties
3 in response to a natural disaster, designating certain
4 activities as essential corporate purposes and essential
5 county purposes, amending provisions related to local bonding
6 authority and contract letting requirements, amending
7 provisions relating to emergency contract letting requirements
8 for joint governmental entities and institutions under the
9 control of the board of regents, amending provisions related
10 to city and county lease contracts and loan agreements,
11 modifying provisions relating to municipal support of certain
12 projects, amending provisions related to expenditures from
13 certain revolving loan funds, and including effective date and
14 retroactive applicability date provisions.
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
16 TLSB 2190SZ 83
17 md/sc/24

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1 1 DIVISION I
1 2 LEGALIZING ACT
1 3 Section 1. CERTAIN PRIOR PROCEEDINGS AND ACTIONS LEGALIZED
1 4 == AMENDMENT OF BUDGETS. All proceedings conducted or actions
1 5 taken by or on behalf of a city or county related to the
1 6 emergency repair or reconstruction of public improvements
1 7 damaged by a natural disaster during the period of time
1 8 beginning May 1, 2008, and ending August 31, 2008, and related
1 9 to all natural disaster-related expenditures by a city or
1 10 county in excess of an original or previously amended city or
1 11 county budget for the fiscal year ending June 30, 2008, that
1 12 were conducted or taken in violation of the requirements of
1 13 section 331.435, 331.437, or 384.18, as applicable, prior to
1 14 the effective date of this division of this Act are hereby
1 15 legalized and validated, and, to that extent, this Act applies
1 16 retroactively to the date such proceedings were conducted or
1 17 actions were taken. A city or county that is subject to this
1 18 division of this Act, shall by June 30, 2009, amend its budget
1 19 for the fiscal year ending June 30, 2008, to reflect any
1 20 actions taken and subsequently legalized and validated by this
1 21 division of this Act.
1 22 Sec. 2. EFFECTIVE DATE. This division of this Act, being
1 23 deemed of immediate importance, takes effect upon enactment.
1 24 DIVISION II
1 25 LOCAL FINANCING
1 26 AND PUBLIC CONSTRUCTION BIDDING
1 27 Sec. 3. Section 16.131, Code 2009, is amended by adding
1 28 the following new subsection:
1 29 NEW SUBSECTION. 7. Notwithstanding any provision of this
1 30 chapter to the contrary, moneys deposited in the revolving
1 31 loan funds may be used in any manner permitted or required by
1 32 applicable federal law.
1 33 Sec. 4. Section 28E.6, Code 2009, is amended by adding the
1 34 following new subsection:
1 35 NEW SUBSECTION. 4. A joint board of an entity created in
2 1 an agreement that is responsible for the operation of a public
2 2 facility or a public improvement may undertake the emergency

2 3 repair of the facility or improvement in the manner provided
2 4 in section 384.103, subsection 2. If an emergency repair is
2 5 undertaken by the joint board, the chairperson, chief officer,
2 6 or chief official of the joint board shall perform the duties
2 7 assigned to the chief officer or official of the governing
2 8 body of the city under section 384.103, subsection 2.

2 9 Sec. 5. Section 76.1, Code 2009, is amended to read as
2 10 follows:

2 11 76.1 MANDATORY RETIREMENT.

2 12 1. Hereafter issues of bonds of every kind and character
2 13 by counties, cities, and school corporations shall be
2 14 consecutively numbered.

2 15 2. a. The annual levy shall be sufficient to pay the
2 16 interest and approximately such portion of the principal of
2 17 the bonds as will retire them in a period not exceeding twenty
2 18 years from date of issue, except as provided in paragraph "b".

2 19 b. General obligation bonds issued for the purposes
2 20 specified in section 331.441, subsection 2, paragraph "b",

2 21 subparagraphs (18) through (20), or in section 384.24,

2 22 subsection 3, paragraphs "w" through "z", and bonds issued to

2 23 refund or refinance bonds issued for those purposes, may

2 24 mature and be retired in a period not exceeding thirty years

2 25 from date of issue.

2 26 3. Each issue of bonds shall be scheduled to mature
2 27 ~~serially~~ in the same order as numbered.

2 28 Sec. 6. Section 76.2, unnumbered paragraph 1, Code 2009,
2 29 is amended to read as follows:

2 30 The governing authority of these political subdivisions
2 31 before issuing bonds shall, by resolution, provide for the
2 32 assessment of an annual levy upon all the taxable property in
2 33 the political subdivision sufficient to pay the interest and
2 34 principal of the bonds within a period named not exceeding
2 35 ~~twenty years~~ the applicable period of time specified in

3 1 section 76.1. A certified copy of this resolution shall be

3 2 filed with the county auditor or the auditors of the counties

3 3 in which the political subdivision is located; and the filing

3 4 shall make it a duty of the auditors to enter annually this

3 5 levy for collection from the taxable property within the

3 6 boundaries of the political subdivision until funds are

3 7 realized to pay the bonds in full. The levy shall continue to

3 8 be made against property that is severed from the political

3 9 subdivision after the filing of the resolution until funds are

3 10 realized to pay the bonds in full.

3 11 Sec. 7. Section 262.34, Code 2009, is amended by adding

3 12 the following new subsection:

3 13 NEW SUBSECTION. 1A. Notwithstanding subsection 1, when a
3 14 delay in undertaking a repair, restoration, or reconstruction
3 15 of a public improvement might cause serious loss or injury at
3 16 an institution under the control of the state board of
3 17 regents, the executive director of the board, or the board,
3 18 shall make a finding of the need to institute emergency
3 19 procedures under this subsection. The board by separate
3 20 action shall approve the emergency procedures to be employed.

3 21 Sec. 8. Section 331.301, subsection 10, paragraph e,
3 22 unnumbered paragraph 1, Code 2009, is amended to read as

3 23 follows:

3 24 The board may authorize a lease or lease-purchase contract

3 25 which is payable from the general fund ~~and which if the~~

3 26 ~~contract~~ would not cause the total of lease and lease-purchase

3 27 ~~payments of the county~~ due from the general fund of the county

3 28 in any single future fiscal year for all lease or

3 29 lease-purchase contracts in force on the date of the

3 30 authorization, excluding payments to exercise purchase options

3 31 or to pay the expenses of operation or ownership of the

3 32 property, to exceed ten percent of the last certified general

3 33 fund budget amount in accordance with the following

3 34 procedures:

3 35 Sec. 9. Section 331.402, subsection 3, paragraph d,
4 1 unnumbered paragraph 1, Code 2009, is amended to read as

4 2 follows:

4 3 The board may authorize a loan agreement which is payable

4 4 from the general fund ~~and which if the loan agreement~~ would

4 5 not cause the total of scheduled annual payments of principal

4 6 or interest or both principal and interest ~~of the county~~ due

4 7 from the general fund of the county in any single future

4 8 fiscal year with respect to all loan agreements in force on

4 9 the date of the authorization to exceed ten percent of the

4 10 last certified general fund budget amount in accordance with

4 11 the following procedures:

4 12 Sec. 10. Section 331.441, subsection 2, paragraph b, Code

4 13 2009, is amended by adding the following new subparagraphs:

4 14 NEW SUBPARAGRAPH. (18) The remediation, restoration,
4 15 repair, cleanup, replacement, and improvement of property,
4 16 buildings, equipment, and public facilities that have been
4 17 damaged by a disaster as defined in section 29C.2.
4 18 NEW SUBPARAGRAPH. (19) The reimbursement of the county's
4 19 general fund or other funds of the county for expenditures
4 20 made related to remediation, restoration, repair, and cleanup
4 21 of damage caused by a disaster as defined in section 29C.2.
4 22 NEW SUBPARAGRAPH. (20) The administrative expenses
4 23 incurred by a county as the result of undertaking an essential
4 24 county purpose under subparagraphs (18) and (19).
4 25 Sec. 11. Section 364.4, subsection 4, paragraph e,
4 26 unnumbered paragraph 1, Code 2009, is amended to read as
4 27 follows:

4 28 The governing body may authorize a lease or lease-purchase
4 29 contract which is payable from the general fund ~~and which if~~
4 30 ~~the contract~~ would not cause the total of annual lease or
4 31 lease-purchase payments ~~of the city~~ due from the general fund
4 32 of the city in any single future fiscal year for all lease or
4 33 lease-purchase contracts in force on the date of the
4 34 authorization, excluding payments to exercise purchase options
4 35 or to pay the expenses of operation or ownership of the
5 1 property, to exceed ten percent of the last certified general
5 2 fund budget amount in accordance with the following
5 3 procedures:

5 4 Sec. 12. Section 384.24, subsection 3, Code 2009, is
5 5 amended by adding the following new paragraphs:

5 6 NEW PARAGRAPH. w. The remediation, restoration, repair,
5 7 cleanup, replacement, and improvement of property, buildings,
5 8 equipment, and public facilities that have been damaged by a
5 9 disaster as defined in section 29C.2.
5 10 NEW PARAGRAPH. x. The reimbursement of the city's general
5 11 fund or other funds of the city for expenditures made related
5 12 to remediation, restoration, repair, and cleanup of damage
5 13 caused by a disaster as defined in section 29C.2.

5 14 NEW PARAGRAPH. y. The acquisition, construction,
5 15 extension, improvement, repair, and equipping of public
5 16 buildings, and the acquisition of real estate needed for such
5 17 purposes, if the principal amount of the bonds does not exceed
5 18 the following limits:

5 19 (1) Four hundred thousand dollars in a city having a
5 20 population of five thousand or less.

5 21 (2) Seven hundred thousand dollars in a city having a
5 22 population of more than five thousand but not more than
5 23 seventy-five thousand.

5 24 (3) One million dollars in a city having a population of
5 25 more than seventy-five thousand.

5 26 NEW PARAGRAPH. z. The administrative expenses incurred by
5 27 a city as the result of undertaking an essential corporate
5 28 purpose under paragraphs "w" and "x".

5 29 Sec. 13. Section 384.24A, subsection 4, unnumbered
5 30 paragraph 1, Code 2009, is amended to read as follows:

5 31 The governing body may authorize a loan agreement which is
5 32 payable from the general fund ~~and which if the loan agreement~~
5 33 would not cause the total of scheduled annual payments of
5 34 principal or interest or both principal and interest ~~of the~~
5 35 ~~city~~ due from the general fund ~~of the city~~ in any single
6 1 future fiscal year with respect to all loan agreements in
6 2 force on the date of the authorization to exceed ten percent
6 3 of the last certified general fund budget amount in accordance
6 4 with the following procedures:

6 5 Sec. 14. Section 384.103, subsection 2, Code 2009, is
6 6 amended to read as follows:

6 7 2. When emergency repair of a public improvement is
6 8 necessary and the delay of advertising and a public letting
6 9 might cause serious loss or injury to the city, the chief
6 10 ~~officer or official of the governing body of the city or the~~
6 11 governing body shall, ~~by resolution,~~ make a finding of the
6 12 necessity to institute emergency proceedings under this
6 13 section, and shall procure a certificate from a competent
6 14 licensed professional engineer or registered architect, ~~not in~~
6 15 ~~the regular employ of the city,~~ certifying that emergency
6 16 repairs are necessary.

6 17 In that event the chief officer or official of the
6 18 ~~governing body or the governing body may accept, enter into,~~
6 19 ~~and make payment under a contract for emergency repairs~~
6 20 without holding a public hearing and advertising for bids, and
6 21 the provisions of chapter 26 do not apply.

6 22 Sec. 15. Section 419.1, subsection 12, Code 2009, is
6 23 amended by adding the following new paragraphs:

6 24 NEW PARAGRAPH. c. Purposes that are eligible for

6 25 financing from midwestern disaster area bonds authorized under
6 26 the federal Emergency Economic Stabilization Act of 2008, Pub.
6 27 L. No. 110=185, together with any other financing necessary or
6 28 desirable in connection with such purposes.

6 29 NEW PARAGRAPH. d. Purposes for which tax exempt financing
6 30 is authorized by the Internal Revenue Code, together with any
6 31 other financing necessary or desirable in connection with such
6 32 purposes.

6 33 Sec. 16. Section 419.17, subsection 2, Code 2009, is
6 34 amended by striking the subsection.

6 35 Sec. 17. Section 455B.297, Code 2009, is amended by adding
7 1 the following new unnumbered paragraph:

7 2 NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of
7 3 this chapter to the contrary, moneys deposited in the
7 4 revolving loan funds may be used in any manner permitted or
7 5 required by applicable federal law.

7 6 Sec. 18. Section 419.8, Code 2009, is repealed.

7 7 Sec. 19. EFFECTIVE DATE. This division of this Act, being
7 8 deemed of immediate importance, takes effect upon enactment.

7 9 EXPLANATION

7 10 This bill relates to disaster recovery by making changes
7 11 relating to local bonding, contract letting, lease or
7 12 lease=purchase contract requirements, loan agreement
7 13 requirements, the definitions of essential county purpose and
7 14 essential corporate purpose, emergency contract letting
7 15 requirements for joint governmental entities and institutions
7 16 under the control of the board of regents, and the definition
7 17 of "project" for purposes of municipal contributions to
7 18 projects under Code chapter 419, by legalizing certain actions
7 19 taken and proceedings conducted in response to a natural
7 20 disaster, and by authorizing certain disaster=affected cities
7 21 and counties to amend their budgets for the fiscal year ending
7 22 June 30, 2008.

7 23 Division I of the bill provides that all proceedings
7 24 conducted or actions taken by or on behalf of a city or county
7 25 related to the emergency repair or reconstruction of public
7 26 improvements damaged by a natural disaster during the period
7 27 of time beginning May 1, 2008, and ending August 31, 2008, and
7 28 related to all natural disaster=related expenditures by a city
7 29 or county in excess of an original or previously amended city
7 30 or county budget for the fiscal year ending June 30, 2008,
7 31 that were conducted or taken in violation of the requirements
7 32 of Code section 331.435, 331.437, or 384.18, prior to the
7 33 effective date of this division of this Act are legalized and
7 34 validated. Division I requires those cities or counties that
7 35 are subject to the division to amend their budgets for the
8 1 fiscal year ending June 30, 2008.

8 2 Division I of the bill takes effect upon enactment and
8 3 applies retroactively to the date of any proceeding or action
8 4 legalized and validated under the division.

8 5 Division II of the bill amends the definitions of
8 6 "essential corporate purpose" and "essential county purpose"
8 7 to include the remediation, restoration, repair, cleanup,
8 8 replacement, and improvement of property, buildings,
8 9 equipment, and public facilities that have been damaged by a
8 10 disaster; the reimbursement of a city or county general fund
8 11 or other funds for expenditures made related to remediation,
8 12 restoration, repair, and cleanup of damage caused by a
8 13 disaster; and administrative expenses incurred by a city or
8 14 county as the result of undertaking the new disaster=related
8 15 essential corporate purposes or essential county purposes.
8 16 Division II also amends Code section 76.1 by providing that
8 17 general obligation bonds issued for these new disaster=related
8 18 essential corporate purposes and essential county purposes,
8 19 and bonds issued to refund or refinance those bonds, may
8 20 mature and be retired in a period not exceeding 30 years from
8 21 the date of issue.

8 22 Division II also amends the definition of "essential
8 23 corporate purpose" to include the acquisition, construction,
8 24 extension, improvement, repair, and equipping of public
8 25 buildings, subject to limitations based on population.

8 26 Division II amends the definition of "project" under Code
8 27 section 419.1, relating to municipal funding of certain
8 28 projects, to include purposes that, in addition to the use of
8 29 tax exempt financing, include any other financing necessary or
8 30 desirable in connection with the project and to include
8 31 purposes that are eligible for financing from midwestern
8 32 disaster area bonds under the federal Emergency Economic
8 33 Stabilization Act of 2008. The definition of "project" in
8 34 Code section 419.1 also applies to the Iowa finance
8 35 authority's bond bank program under Code section 16.102.

9 1 Division II also repeals Code section 419.8, which restricts
9 2 the use of land owned by the municipality for a project and
9 3 requires the entire cost of any project to be paid out of the
9 4 proceeds from the sale of bonds issued under Code chapter 419
9 5 and not from any other funds of the city, except for donations
9 6 of property or money received by the city to be used as a part
9 7 of a project.

9 8 Division II amends procedures for certain emergency repairs
9 9 under Code section 384.103. Division II provides that when
9 10 emergency repair of a public improvement is necessary and the
9 11 delay of advertising and a public letting would cause serious
9 12 loss or injury to the city, the chief officer or official of
9 13 the governing body of the city, or the governing body, shall
9 14 make a finding of the necessity to institute emergency
9 15 proceedings and shall procure a certificate from a competent
9 16 licensed professional engineer or registered architect
9 17 certifying that emergency repairs are necessary. Division II
9 18 also provides that upon receiving the certificate, the chief
9 19 officer or official of the governing body of the city, or the
9 20 governing body, may accept, enter into, and make payment under
9 21 a contract for emergency repairs without satisfying the
9 22 advertising and public hearing requirements of Code chapter
9 23 26.

9 24 Division II amends Code section 262.34 by authorizing the
9 25 executive director of the board of regents, or the board, to
9 26 authorize, adopt, and implement emergency public bidding and
9 27 contract letting requirements if a delay in undertaking a
9 28 repair, restoration, or reconstruction of a public improvement
9 29 might cause serious loss or injury at an institution under the
9 30 control of the board of regents.

9 31 Division II authorizes a joint board of an entity created
9 32 in an agreement under Code chapter 28E that is responsible for
9 33 the operation of a public facility or public improvement to
9 34 undertake emergency repair of the public facility or the
9 35 public improvement using the procedure in Code section
10 1 384.103, as amended by the bill.

10 2 Division II amends city and county requirements for lease
10 3 or lease-purchase contracts and loan agreements by specifying
10 4 that such contracts or agreements may not be authorized if the
10 5 contract or agreement would cause payments from the city or
10 6 county general fund to exceed 10 percent of the last city or
10 7 county certified general fund budget unless certain procedures
10 8 are followed.

10 9 Division II provides that money deposited in the revolving
10 10 loan funds created under Code section 455B.295, relating to
10 11 clean water projects, may be used in any manner permitted or
10 12 required by applicable federal law.

10 13 Division II of the bill takes effect upon enactment.

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